Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the matter of:	)	
	)	
Request for Review of Decisions	)	Docket Nos. 02-6
of the Universal Service Administrator	)	
	)	

Ref.:

Applicant Names:	NYC Department of Education
Entity Numbers:	153135
Funding Year:	2003
Form 471 Application Numbers:	367826
Funding Request Numbers:	1008097

In this appeal, the New York City Department of Education (NYCDOE) asks the Commission to review an appeal decision of the Schools and Libraries Division ("SLD" or "Administrator") that denies a request to correct a mischaracterization of maintenance and support consulting services as ineligible. The appeal decision of the SLD failed to recognize consulting services that are clearly appropriate and eligible according to FCC rules.

Background:

The NYCDOE provides a portion of its maintenance and support services for 1200 schools from its MetroTech Center in Brooklyn New York. This centrally distributed use of resources allows the NYCDOE to more efficiently and cost effectively maintain its network and support the large number of schools in the district. All of these services are performed by contracted vendors both on-site and off-site as needed.

The NYCDOE 471 application for 2003 identified ***only*** those services that are eligible for E-rate discounts as indicated on the SLD's list of eligible services. Other technical consulting services, not eligible for discounts under the rules, are contracted for separately and not included anywhere on the E-rate 471 application. This fact was reinforced with PIA representatives during the review period and restated in the subsequent appeal to the SLD.

Since NYC schools are not all under the same discount band, centrally provided services are proportionally filed for each qualifying discount group of schools. As an example, in 2003 60% of the NYCDOE schools were classified as eligible for 90% discounts. Therefore an FRN was established requesting a 90% discount on only 60% of the citywide maintenance and support services. Additional FRNs were submitted, in the proportionate amounts, for the other discount bands representative of NYC schools.

This appeal is a consequence of the SLD's mistaken characterization of 34.96% of claimed maintenance and support services as ineligible for discounts with regards to FRN 1008097.

Issues and Arguments:

1. The 2003 NYCDOE E-rate application (Form 471) identifies $12, 425,878.08 in annual consulting services for maintenance and technical support. All of these services are eligible for discounting under the SLD's list of eligible services that maintain and support eligible equipment. Non-eligible services are disaggregated and paid for with other funding and not included on the application.

2. Since the total $12,425,878.08 in eligible consulting services supports all New York City schools, that amount was proportioned for each discount band of schools. In 2003, 60% of all New York City public schools qualified for a 90% discount and, therefore, FRN 1008097 requests a 90% discount on 60% of the total citywide, eligible consulting services costs ($7,455,526.83).

3. During the PIA review period, SLD reviewers asked to examine the related Project Change Request (PCR) agreement between the NYCDOE and its vendor. On that PCR document, the $12,425,878.08

for eligible support services is broken down and lists the MetroTech maintenance and support consulting services as $4,344,109.44 of the 12,425,878.08 total eligible charges, a subset amount of the total eligible contracted maintenance and support services serving all the schools. Mistakenly during this review, all MetroTech consulting services were identified as ineligible by the SLD. This led the reviewers to apply 60% of these "ineligible" costs toward FRN 1008097 which corresponds to 60% of all NYCDOE schools. Since the SLD **incorrectly classified "ineligibles"** amount to more than 30% of the request (60% of $4,344,109.44 equals $ 2,606,465.60 or 34.96% of the $7,455,526.83 claim), FRN 1008097 was denied in full.

4. The error of the SLD denial stems from its decision to identify the MetroTech component of maintenance and support services as fully ineligible. The SLD denial provides no explanation for that decision and in no way refutes our previously submitted evidence that demonstrates the work as clearly eligible maintenance and support on eligible equipment.

5. During the PIA review period we clarified the MetroTech consulting services in a letter addressed to Mr. Ray Mendiola of the Universal Service Fund Operation office in New Jersey.

   "The Metrotech Support Services consultants perform services both on and off-site. These consultants are responsible for supporting the integrations that are performed within the schools to ensure that the DOE network design guidelines are implemented. Several tasks include.
   - ✓ *Validate integration site survey data/*
   - ✓ *Review, modify and approve network integration plan.*
   - ✓ *Generate configurations for all networking equipment to ensure consistency with DOE standards.*
   - ✓ *Provide level 3 engineering support to field technicians during rollout. Occasionally, the team also provides on-site technical support.*
   - ✓ *Ensure field operations adhere to project guidelines."*

6. The consulting resources identified in FRN 1008097, in part labeled as "MetroTech consulting services", are for network architects, and engineers. (See attachments A and B) None of these consultants are

employees of the NYCDOE. They are part of the contracted resources for installation, maintenance and changes to eligible equipment needed for transmitting information over the network (see attachment C).

7. In our Letter of Appeal to the SLD on this FRN dated January 16, 2004 we reiterated the explanation of these consulting services and how we file for E-rate discounts.

   "NYCDOE believes that this is a mischaracterization of a service specifically designed to meet the basic maintenance requirements of an extensive network of eligible equipment serving over 1200 schools. We believe that the centralized maintenance approach covered by this FRN is not only cost-effective for New York City, but compares favorably on a per school basis with basic maintenance expenses incurred by many other smaller districts.

   "Network support/maintenance services are managed centrally by the NYCDOE for over 1200 public schools in over 1600 physical sites. This FRN is a claim for only those schools in the 90% discount category (698 schools). The pre discount of 12.4 million dollar cost for maintenance/support covers all 1243 New York City Public Schools at the time the application was filed. This FRN request reflects the total cost of eligible services for 698 schools out of 1243 total numbers of schools. This FRN is a claim for only eligible services supporting the schools in the 90% discount category.

8. The classification of ineligible for the consulting services in FRN 1008097, we believe, was done in error for the following reasons:

   - ✓ The consulting services requested are consistent with the SLD list of eligible services.
   - ✓ All equipment supported and being maintained by these consulting services are eligible on the SLD list of eligible equipment.
   - ✓ While these consulting services may be performed both on-site and off-site, no service provider is an employee of the NYCDOE.
   - ✓ Providing services from a central location (MetroTech) is the most efficient and cost effective approach for a school system the size of New York City.

- ✓ FRN requests funding on only 60% of the eligible charges proportioned to the number of schools qualifying for a 90% discount.

The SLD denial provides no clarification or support for their decision. What is stated in the denial is inconsistent with stated guidance. We ask the FCC to reverse the decision of the SLD and approve in full, the funding for FRN 1008097.

Respectfully submitted,

By: Ling Tan

ATTACHMENT A

June 9, 2004

Consultant Services
NYCDOE Network Architect Description
Entity 153135

Network Architect
The network architect is responsible for working closely with the support teams and engineers to ensure the network architecture standards are followed during all engineering and implementation efforts. The network architect is responsible for interfacing with other members of the support teams (I.e., NT systems, frame relay, field services, network integrators, DOE network engineers, network engineers, etc.). The network architect is responsible for working closely with engineers in developing implementation, testing, and quality assurance plans and checklists.

The Network Architect is highly skilled and has knowledge across multiple platforms, processes or architectures, as well as broad knowledge of new technologies, and will include directing the design efforts of engineers that are primarily responsible for supporting the project installation of the network components in school. Additionally, they provide support to the engineers responsible for the core network that all Internet traffic for the twelve hundred schools traverse.

Specific Responsibilities

The engineer will be responsible for the following specific tasks over the life of the project:

- Perform initial design and ensure initial operation of core network interior gateway routing protocols (I.e., EIGRP, RIP, BGP, static, etc.), switch Virtual LANs, and firewall configuration required for the continued operation of Internet protocol.
- Perform initial design and ensure initial operation of wide area network transport protocol configuration (I.e., Frame Relay DLCI mappings, ATM VPI/VCI mappings, T3 channel groups) required for

the continued operation of the WAN which transports the Internet protocol.

- Perform initial design of school specific LAN/WAN environment including (IP addressing, VLANs structure, IP routing, physical layout of network connections, etc.)
- Develop and document network integration and installation tasks and steps to ensure continued operation of network.
- Document project network design and procedures necessary for integration.
- Document integration survey checklist to be utilized by field technicians / integrators.
- Perform testing of infrastructure technology planned for deployment in the production environment to ensure compatibility and interoperability with existing network infrastructure.
- DNS design and engineering in support of infrastructure deployment projects.
- Provides level 3 technical assistance with diagnosing problems, verifying servers, switches, routers status, testing device connectivity, path trace etc.
- Prepare core network diagrams, physical equipment connections & schematics using VISIO 2000.

Actual Job Function	% of Time
• Engineering & Implementation	90
• Maintenance & Technical Support	10

ATTACHMENT B

June 9, 2004

Consultant Services
NYCDOE Network Engineer-Engineering & Implementation
Entity153135

Network Engineer – Engineering & Implementation
The network engineers are responsible for working closely with the various groups and ensuring the network architecture standards are followed during all engineering and implementation efforts. The network engineers are responsible for interfacing with other members of the support teams (I.e., NT Support, NT Architect, Frame Relay support, ATS field services, field services, network integrators, DOE network engineers, network architect, etc.). They are responsible for providing implementation documentation and skills transfer to infrastructure field services, Tier 2, Frame Relay network engineers.

The network engineering and implementation group are highly skilled Cisco Certified networking engineers that are primarily responsible for supporting the project installation of the network components in school. Additionally, they are responsible for supporting the core network provide transport for all Internet traffic for the twelve hundred schools. The network engineers are responsible for providing Level 3 support for problem determination and problem source identification to all infrastructure support groups.

Specific Responsibilities

The engineer will be responsible for the following specific tasks over the life of the project:

- Perform initial installation, configuration and ongoing maintenance of all core routers, switches, and firewalls.
- Perform software upgrades and configuration changes for all core infrastructure equipment.
- Perform maintenance of core network interior gateway routing protocols (I.e., EIGRP, RIP, BGP, static, etc.), switch Virtual LANs, and firewall configuration required for the continued operation of Internet protocol.

- Perform onsite and remote diagnostic of all infrastructure network components including centrally located core routing switches and routers, Internet facing BGP routers, and firewalls.
- Review and validate integration site survey data and planned changes.
- Review, modify and approve network integration plan.
- Generate equipment configurations for all networking components in support of the integration to ensure consistency with DOE standards.
- Provide level 3 engineering support to field technicians during initial implementation.
- Provide on-site technical assistance as required to ensure integrity of installation.
- Document project implementation tasks and validate installation team completion of work.
- Perform remote diagnostic of a wide range of network infrastructure components including WAN/LAN routers, LAN switches, LAN bridges, Wireless LAN access points, communication servers, firewalls, and other network infrastructure equipment used in the transport of Internet access.
- Provide remote technical assistance and work in conjunction with integration field engineers in the problem isolation and resolution of complex problems prohibiting Internet access by school infrastructure components.

Actual Job Function	% of Time
• Engineering & Implementation	70
• Maintenance & Technical Support	30

ATTACHMENT C

June 9, 2004

Equipment Maintained and Supported by
NYCDOE Network Architect and Engineer
Entity 153135

EQUIPMENT LIST	Network Architect	Network Engineer
Cisco 1528		x
Cisco 1538		x
Cisco 1548		x
Cisco 2612 (IOS)	x	x
Cisco 3640 (IOS)	x	x
Cisco 3725 (IOS)	x	x
Cisco 3745 (IOS)	x	x
Cisco 7204 (IOS)	x	x
Cisco 7507 (IOS)	x	x
Cisco AP1200 (Aeronet/IOS)	x	x
Cisco AP350 (Aeronet/IOS)	x	x
Cisco AS5200 (IOS)	x	x
Cisco BR350 (Aeronet/IOS)	x	x
Cisco Catalyst 2916 (IOS)	x	x
Cisco Catalyst 2924 (IOS)	x	x
Cisco Catalyst 2950 (IOS)	x	x
Cisco Catalyst 3508 (IOS)	x	x
Cisco Catalyst 3524 (IOS)	x	x
Cisco Catalyst 3548 (IOS)	x	x
Cisco Catalyst 3550 (IOS)	x	x
Cisco Catalyst 5505 (CatOS)	x	x
Cisco Catalyst 6506 (CatOS & IOS)	x	x
Cisco Catalyst 6509 (CatOS & IOS)	x	x
Cisco CDM 4650 (ACNS)		x
Cisco CE-590 (ACNS)		x
Cisco CE-7305 (ACNS)		x
Cisco Fasthub 400		x
Cisco LD 430 (LD-OS)	x	x
Cisco VoIP Call Manager		x
Cisco VoIP Voice Gateway		x
IBM NetFinity 4500R		
IBM NetFinity 5000		
IBM NetFinity 6000R		
IBM NetFinity X345		
IBM NetFinity X350		
IBM NetFinity X360		
IBM PC Server 325		